



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18<sup>TH</sup> STREET - SUITE 300  
DENVER, CO 80202-2466  
<http://www.epa.gov/region08>  
DENVER, COLORADO 80202-2466

September 29, 2006

Ref: 8ENF-L

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Dennis Potzman, President and CEO  
Group Montana, Inc. (Montana Silversmiths)  
1 Sterling Lane  
P.O. Box 839  
Columbus, MT 59019

Re: In the Matter of Montana Silversmiths  
Docket No. CAA-08-2006-0008  
Administrative Order

Dear Mr. Potzman:

Enclosed is an Administrative Order ("Order"), that the United States Environmental Protection Agency, Region 8 ("EPA") is issuing under the authority of Section 113(a)(3)(B) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(a)(3)(B). In the Order, EPA finds Montana Silversmiths, Inc. in violation of Section 112(r)(1) and 112(r)(7) of the CAA, 42 U.S.C. §§ 7412(r)(1) and (7) and regulations set forth in 40 C.F.R. Part 68, Subpart G, pertaining to compliance with the risk management program.

EPA has found that Montana Silversmiths has not met its "general duty", pursuant to CAA section 112(r)(1), to prevent and minimize accidental releases of anhydrous ammonia. EPA has also found that Montana Silversmiths has not filed a risk management plan for anhydrous ammonia as required by CAA Section 112(r)(7). EPA is issuing the enclosed Administrative Order, which specifies the nature of the violations and describes actions necessary for compliance with CAA Section 112(r)(1) and (r)(7).

The Order requires Montana Silversmiths to submit a Risk Management Plan to the EPA Region 8 office by November 30, 2006. The Order also requires Montana Silversmiths to conduct a risk assessment and prepare recommendations for changes or modifications at its facility to comply with the general duty clause requirements of the Clean Air Act by dates specified in the Order.

In accordance with section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), the Order will not take effect until Montana Silversmiths has had the opportunity to confer with EPA concerning the findings set forth in the Order. If Montana Silversmiths would like an opportunity to confer with EPA regarding this Order, please call this office **within five (5) business days** of your receipt of this letter. Such request must be also be made in writing following the procedures set out in the Order. If the conference is not requested, the Order shall become effective eleven (11) days after Respondent's receipt of the Order. A request for such a conference does not extend the time periods Montana Silversmiths has for meeting all deadlines specified in the Order. Montana Silversmiths has the right to be represented by counsel at the conference but it is not required.

Please be advised that the issuance of this Order does not preclude the initiation of any action authorized under law for failure to comply with the Order, including the assessment of an administrative penalty and the filing of civil or criminal actions in the U.S. District Court. Failure to comply with the requirements of the Order is a violation of the Order. Please also be advised that the issuance of this Order does not preclude the initiation of administrative penalty proceedings or civil or criminal actions in the U.S. District Court for the violations cited in the Order or for any other violations that Montana Silversmiths may have committed prior to or may commit after the issuance of the enclosed Order.

Please review the Order carefully. If you have any questions, please contact the most knowledgeable people on my staff, David Cobb, Environmental Scientist, (for technical issues) who can be reached at (303) 312-6592, and Richard H. Baird, Senior Enforcement Attorney, (for legal issues) who can be reached at (303) 312-6642.

Sincerely,



Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures: Administrative Order  
Notice of SEC Disclosure  
Small Business Information Sheet

cc: Richard H. Baird, 8ENF-L  
David Cobb, 8ENF-AT



2006 SEP 29 PM 2:22  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
999 18<sup>th</sup> STREET, SUITE 300  
DENVER, COLORADO 80202-2466

FILED  
EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF:

Montana Silversmiths, Inc.

Respondent.

Proceeding under Section 113 of the  
Clean Air Act, 42 U.S.C. §7413

Docket No. CAA-08-2006-0008

ADMINISTRATIVE ORDER

**ADMINISTRATIVE ORDER**

This Administrative Order ("Order") is issued to Montana Silversmiths, Inc. ("Respondent") pursuant to Title I, Section 113(a)(3)(B) of the Clean Air Act, 42 U.S.C. §7413 (a)(3)(B). Section 113(a)(3)(B) grants to the Administrator of the U.S. Environmental Protection Agency ("EPA") the authority to make a finding of violation of a requirement or prohibition of Title I, and upon such a finding, to issue an order requiring a person to comply with such requirement or prohibition.

**STATUTORY AND REGULATORY BACKGROUND**

1. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Amendments added Section 112(r) to the Clean Air Act, 42 U.S.C. § 7412(r), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances.

2. Pursuant to the general duty clause ("GDC") found at Section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to: (a) identify hazards which may result from accidental releases of such substances using appropriate hazard assessment

techniques; (b) to design and maintain a safe facility taking such steps as are necessary to prevent releases; and, (c) to minimize the consequences of accidental releases which do occur.

3. Pursuant to Section 112(r)(7) of the Clean Air Act, 42 U.S.C. § 7412(r)(7), the owners and operators of stationary sources are required to develop and implement a risk management plan ("RMP") that includes a hazard assessment, a prevention program and an emergency response program. The RMP must be submitted to the EPA Reporting Center for all covered processes, by an owner or operator of a stationary source, that has more than a threshold quantity of a regulated substance in a process no later than June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

4. Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$32,500 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of the Clean Air Act referenced therein, including Section 112(r)(1) and/or Section 112(r)7.

5. The regulations at 40 C.F.R. § 68.3 define "stationary source" as any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control) and from which an accidental release may occur.

6. The regulations at 40 C.F.R. § 68.3 define "regulated substance" as any substance listed pursuant to Section 112(r)(3) of the Clean Air Act, as amended, in 40 C.F.R. § 68.130, Tables 1, 2, 3 and 4.

7. The regulations at 40 C.F.R. § 68.3 define "threshold quantity" as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the Clean Air Act, as amended, listed in 40 C.F.R. § 68.130, Tables 1, 2, 3 and 4, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

8. The regulations at 40 C.F.R. § 68.3 define "process" as any activity involving a regulated substance including any use, storage, manufacturing, handling or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

9. The regulations at 40 C.F.R. § 68.3 define "accidental release" as an unanticipated emission of a regulated substance, as defined in paragraph 6, or other extremely hazardous substance into the ambient air from a stationary source.

### **FINDING OF FACT**

10. Respondent is, and at all times referred to herein was, a "person" as defined by Section 302(e) of the Clean Air Act, 42 U.S.C. § 7602(e).
11. The Facility is a "stationary source" pursuant to Section 112(r)(2)(C) of the Clean Air Act and 40 C.F.R. § 68.3.
12. Respondent is the owner and/or operator of a plating company located at 1 Sterling Lane, Columbus, Montana (the "Facility"). The Facility is located adjacent to a residential area and produces ornamental silver and gold products.
13. At its Facility, Respondent handles, and/or stores, anhydrous ammonia, a regulated substance pursuant to Section 112(r)(2) and (3) of the Clean Air Act, which is listed at 40 C.F.R. § 68.130. The threshold quantity requiring the submittal of an RMP for anhydrous ammonia, as listed in 40 C.F.R. § 68.130, Table 1, is 10,000 pounds
14. EPA inspector, David Cobb, conducted an inspection of the Facility on August 15, 2006, to determine compliance with Section 112(r) of the Clean Air Act.
15. Information collected at the inspection revealed that the Respondent had greater than 10,000 pounds of anhydrous ammonia in a process at the Facility.
16. Respondent was asked to produce a copy of its RMP that had been submitted to the EPA Reporting Center. Respondent informed Mr. Cobb that it had not submitted its RMP.
17. On May 23, 2006, Respondent released approximately 852 pounds (150 gallons) of anhydrous ammonia from the Facility, as estimated by Respondent's representatives. The release entered the neighboring residential property.
18. EPA's inspection of the Facility further revealed a number of safety concerns including the physical location of the anhydrous ammonia tanks, the hazard assessment of these tanks, the standard operating procedures used to maintain the tanks, and the incident response policy used to respond to accidental releases.

### **FINDING OF VIOLATIONS**

#### **General Duty Clause**

19. Pursuant to Section 112(r)(1) of the Clean Air Act, Respondent has a general duty, in the same manner and to the same extent as 29 U.S.C § 654, to: (a) identify hazards which may result from accidental releases of a regulated substance or other extremely hazardous substance, using appropriate hazard assessment techniques; (b) design and maintain a safe facility taking such

steps as are necessary to prevent releases; and, (c) minimize the consequences of accidental releases which do occur.

20. Based on information available to EPA, including information gathered during the inspection performed by EPA at the Facility and the FINDING OF FACT set forth above, EPA has determined that Respondent failed to satisfy the general duty referred to in Paragraph 19 above, in that, among other things, Respondent has not designed and maintained a safe facility taking such steps as are necessary to prevent releases of a regulated substance and minimize the consequences of accidental releases that do occur. Therefore, Respondent violated the provisions of Section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1).

### **Risk Management Plan**

21. Respondent is subject to the requirements of Section 112(r)(7) of the Clean Air Act, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68, Subpart G, because it is an owner and operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

22. Respondent failed to submit an RMP for its covered processes as required by 40 C.F.R. § 68.150. Montana Silversmiths' failure to comply with 40 C.F.R. § 68.150 is a violation of Section 112(r)(7) of the Clean Air Act, 42 U.S.C. § 7412(r)(7).

### **COMPLIANCE ORDER**

23. Based upon the foregoing Findings of Fact, Findings of Violations, other information available to EPA, and pursuant to Section 113(a)(3)(B) of the Clean Air Act, 42 U.S.C. § 7413(a)(3)(B), Respondent is hereby ORDERED as follows:

- a. To comply with the Clean Air Act and its implementing regulations including, but not limited to, those requirements set forth in Section 112(r)(1) and Section 112(r)(7), and those requirements specifically required in this Compliance Order. All activities specified below shall be initiated and completed as soon as possible even though maximum time periods for their completion are specified herein.
- b. Respondent shall, by no later than **November 30, 2006**, submit an accurate and complete RMP to **EPA Region 8** for review at the following address:

U.S. EPA, Region VIII  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO 80202-2466  
Attn: David Cobb, ENF-AT

- c. Respondent shall submit an accurate and complete RMP to the **EPA Reporting Center within 10 days** after receiving written notification from the EPA Region 8 Office that the RMP has been reviewed and no changes are required. The address for the EPA Reporting Center is:

Risk Management Plan (RMP) Reporting Center  
P.O. Box 1515  
Lanham-Seabrook, Maryland 20703-1515

- d. Respondent shall take at least the following steps to comply with the General Duty Clause requirements of the Clean Air Act.

- i. **Within 60 days of the effective date of this Order**, Respondent shall have a hazard assessment conducted on the anhydrous ammonia process system including tanks, piping, and valves at the Facility. The assessment shall include an evaluation of whether such equipment meets applicable codes, protocols, and standards. The assessment shall also include providing recommendations for the Facility regarding safety and release prevention improvements that are in accordance with current appropriate protocols and standards including, but not limited to, those of the American National Standards Institute (ANSI), and American Society of Mechanical Engineers (ASME).
- ii. The assessment shall be conducted by a professional engineer with appropriate experience in ammonia system design, operation, and maintenance. The professional engineer shall also develop the recommendations required pursuant to subparagraph i., above. A statement of the engineer's qualifications, including a professional resume and business references shall be provided to EPA prior to the commencement of the assessment.
- iii. **Within 90 days of the effective date of this Order**, Respondent shall submit to EPA a report which includes the findings of the assessment performed pursuant to subparagraph i., above, and all recommendations for actions to be taken at the Facility regarding safety and/or release prevention improvements. The assessment and recommendations are to be certified by the engineer who conducted the assessment. In addition to the report, Respondent shall submit an action plan ("Plan") for the performance of repairs and changes recommended in the report along with a schedule for implementing the Plan by Respondent.

- iv. EPA will review the Plan and the schedule submitted pursuant to subparagraph iii. above, and will either accept them or direct Respondent to make changes or make further assessments, and resubmit the document(s).
- v. Upon receipt of written approval by EPA of the Plan and schedule, EPA will issue a second Administrative Compliance Order (ACO) to Respondent. The second ACO will document the agreement between EPA and Respondent on the work to be performed at the Facility and the applicable schedule for completion. The ACO will be signed by both the EPA and Respondent.
- vi. The submissions required by the subparagraphs ii and iii, above shall be made to:

U.S. EPA, Region VIII  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO 80202-2466  
Attn: David Cobb, ENF-AT

#### **PENALTY PROVISIONS**

24. Pursuant to Section 113 of the Clean Air Act, 42 U.S.C. § 7413, failure to comply with any of the provisions of this Order may subject Respondent to penalties of up to \$27,500 per day for each violation occurring before March 15, 2004. Violations occurring after March 15, 2004, are subject to penalties of up to \$32,500 per day for each violation.

25. Issuance of this Order does not preclude EPA from assessing penalties or taking any other action authorized under the Act. This Order does not affect the obligation of Respondent to comply with all federal, state and local statutes, regulations and permits.

#### **EFFECTIVE DATE**

26. Respondent may request a conference with EPA concerning the violations alleged in, and the requirements of, this Order. Such request must be made in writing and be received by EPA **no later than ten (10) days after Respondent's receipt of this Order**. The written request for a conference may be sent by **fax or mail**. Respondent has the right to be represented by counsel at the conference but it is not required. If the conference is not requested within the ten (10) day period specified above, the Order shall become effective eleven (11) days after Respondent's receipt of the Order.

27. If the conference with EPA is conducted, the Respondent shall inform EPA in writing of its intent to fully comply with the Order **no later than ten (10) days after the conference**. If no



letter is received by EPA within ten (10) day period, the Order shall become effective on the 11<sup>th</sup> day after EPA's conference with Respondent.

28. Letters sent pursuant to Paragraphs 26 and 27 should be addressed or faxed to:

U.S. EPA, Region VIII  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO 80202-2466  
Attn: David Cobb, ENF-AT  
Phone: (303) 312-6592  
Fax: (303) 312-6409

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8

9/29/06  
Date

By: Carol Rushin  
Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

9/29/06  
Date

By: Michael T. Risner  
Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program

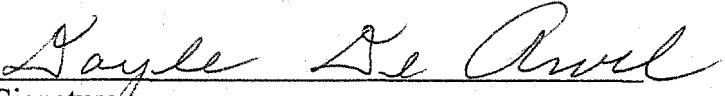
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the original and one copy of the  
ADMINISTRATIVE COMPLIANCE ORDER was hand-carried to the Regional Hearing Clerk,  
EPA, Region 8, 999 18th Street, Denver, Colorado, and that a true copy of the same was mailed  
by certified mail to:

Dennis Potzman, President and CEO  
Montana Silversmiths, Inc.  
1 Sterling Lane  
P.O. Box 839  
Columbus, MT 59019

SEP 29 2006

Date

  
Signature

## NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the Office of Chief Counsel in the SEC's Division of Corporation Finance. The phone number is (202) 942-2900.



*Office of Enforcement and Compliance Assurance*  
**INFORMATION SHEET**

## U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

### Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers:  
[www.epa.gov/clearinghouse](http://www.epa.gov/clearinghouse)

Pollution Prevention Clearinghouse  
[www.epa.gov/opptintr/library/ppicindex.htm](http://www.epa.gov/opptintr/library/ppicindex.htm)

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information.  
(800) 368-5888

Emergency Planning and Community Right-To-Know Act  
(800) 424-9346

National Response Center (to report oil and hazardous substance spills)  
(800) 424-8802

Toxics Substances and Asbestos Information  
(202) 554-1404

Safe Drinking Water  
(800) 426-4791

Stratospheric Ozone Refrigerants Information  
(800) 296-1996

Clean Air Technology Center  
(919) 541-0800

Wetlands Helpline  
(800) 832-7828

### EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page  
[www.epa.gov](http://www.epa.gov)

Small Business Assistance Program  
[www.epa.gov/ttn/sbap](http://www.epa.gov/ttn/sbap)

Compliance Assistance Home Page  
[www.epa.gov/compliance/assistance](http://www.epa.gov/compliance/assistance)

Office of Enforcement and Compliance Assurance  
[www.epa.gov/compliance](http://www.epa.gov/compliance)

Small Business Ombudsman  
[www.epa.gov/sbo](http://www.epa.gov/sbo)

Innovative Programs for Environmental Performance  
[www.epa.gov/partners](http://www.epa.gov/partners)

